

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ROSS MITCHELL and BLANCA
MITCHELL,

Plaintiffs,

vs.

PATHE DIALLO, WERNER ENTERPRISES,
INC., WERNER TRANSPORTATION, INC.,
GRA-GAR, LLC, WERNER GLOBAL
LOGISTICS, INC., WERNER GLOBAL
LOGISTICS, U.S., LLC, WERNER
LEASING, LLC, WERNER MANAGEMENT,
INC., PHILLIPS MANUFACTURING, CO.,
PHILLIPS MANUFACTURING CO. OF
OHIO, LLC, and PHILLIPS REALTY, LLC,

Defendants.

8:19CV570

ORDER

This matter comes before the Court after review of Plaintiffs' Response (Filing No. 17) to the Court's Order to Show Cause (Filing No. 16) dated March 31, 2020. Plaintiffs request the Court "permit Plaintiffs to litigate this matter against all named Defendants and secure a determination of all claims and issues on the merits," and ask the Court find that a release dated August 18, 2018, between Plaintiff Ross Mitchell and his employer, including the Werner defendants, is invalid. (Filing No. 17 at pp. 1-2).

As previously outlined by the court, Plaintiffs commenced this action on December 31, 2019, (Filing No. 1), and have filed documents purporting to show that the defendants Pathe Diallo, the Werner entities, and Gra-Gar, LLC, were served with notice of this lawsuit on January 7 and 8, 2020. (Filing Nos. 6- 7). More than 90-days have passed since Plaintiffs represent to the Court that those defendants were served, yet those defendants have not filed any responsive pleading or otherwise appeared in this case. The Court cannot authorize this case to proceed to discovery and resolution on the merits until all named defendants have filed answers and participated in a Rule 26(f) conference. See Fed. R. Civ. P. 26(d)(1) ("A party may not seek discovery from any source before the parties have conferred as required by Rule 26(f)[.]"). Without further action by Plaintiffs, this case cannot proceed to discovery and a determination on the merits. Accordingly,

IT IS ORDERED: The show cause deadline is terminated. Plaintiffs may not conduct discovery until all named defendants have been served, appeared, answered, and participated in a Rule 26(f) conference, or until Plaintiffs have taken some other appropriate action against defendants Pathe Diallo, the Werner entities, and Gra-Gar, LLC.

Dated this 17th day of April, 2020.

BY THE COURT:

s/ Michael D. Nelson
United States Magistrate Judge